

CALIFORNIA FRANCHISE TAX BOARD

Internal Procedures Manual
Water's Edge Manual

Rev.: September 2001

EXHIBIT 20. A1

STATE OF CALIFORNIA
FRANCHISE TAX BOARD



P.O. BOX 1779
RANCHO CORDOVA, CA 95741-1779

Re: Federal Form 5472

Revenue and Taxation Code Section 19141.5 conforms state law to IRC §6038A which requires the filing of form 5472. IRC §6038A and the regulations require Form 5472 to be filed no later than the due date or extended due date of the return.

In this case, it appears that six Form 5472s were required to be filed with the 12/94 tax return, but no forms were attached. Revenue and Taxation Code Section 19141.5 provides for the imposition of a \$10,000 penalty for each failure to timely file a copy of the federal Form 5472 with the Franchise Tax Board. In this case, because the taxpayer failed to file six forms, a \$60,000 penalty may be applicable.

The penalty may be waived, however, if the taxpayer can establish reasonable cause for failing to provide the information timely. If you believe that the penalty should be waived due to reasonable cause, please provide a written statement within 30 days explaining why you believe reasonable cause exists for the failure to comply with §19141.5.

Please be advised that the protest rights granted by §19041 apply only to assessments of additional tax. Therefore in order to contest the penalty once it has been imposed, the taxpayer must pay the assessment and file a claim for refund. If the claim is denied, the taxpayer may file an appeal with the California State Board of Equalization.